



REMARKS/ARGUMENTS

Reconsideration of this application in light of the following comments and accompanying submissions is courteously solicited.

The examiner in the office action of November 9, 2005 rejected previously submitted claims 27 and 28 under 35 U.S.C. 102(e) as being anticipated by either Kittrell et al. 6,464,951 or Kittrell et al. 6,179,971. In response to this rejection, Applicant submits concurrently herewith a declaration of James R. Kittrell under 37 C.F.R. 1.132. It is submitted that the declaration of Dr. Kittrell submitted concurrently herewith is a sufficient showing under 37 C.F.R. 1.132 that the invention disclosed but not claimed in the cited references was derived from Dr. Kittrell, the inventor in the instant application, and thus the disclosure and the cited references do not constitute an invention "by another" under 35 U.S.C. 102. In light of the foregoing submission, it is respectfully submitted that the any rejection by the examiner of newly presented amended claims 27 and 28 over either or both of the Kittrell '951 and '971 would be improper.

Previously submitted claims 27 and 28 were rejected under 35 U.S.C. 103(a) as being obvious over Kramer et al., U.S. Patent 6,086,749. As to how this rejection applies to the claims as amended herein, it is traversed.

Applicant submits concurrently herewith a further declaration of Dr. James R. Kittrell along with comparative data establishing the superior results obtained vis-à-vis catalyst activity for conversion of contaminants in a gas stream when employing small amounts of silica in combination with titania and tungsten oxide. The declaration of Dr. Kittrell clearly establishes not only the criticality but the superior and unexpected results obtained from minor additions of silica into

a catalyst support when removing contaminants in a gas stream. It is respectfully submitted that the declaration of Dr. Kittrell overcomes the examiner's *prima facie* case of obviousness based on the Kramer '749 patent. The Kramer patent is drawn to a catalyst used in high temperature hydroprocessing of hydrocarbon feedstocks to upgrade same to useful products. The Kramer et al. reference has a catalog of elements. The selection of the elements from the Kramer listing as proposed by the examiner amounts to a hindsight reconstruction. There is no suggestion at all in the Kramer reference in the result to be obtained by the addition of silica to a catalyst support containing titania and tungsten oxide. The declaration of Dr. Kittrell clearly establishes criticality for silica in combination with titania and tungsten oxide. The Kramer reference not only does not require silica in any of their catalyst compositions, the Kramer reference does not at all suggest or appreciate the specific benefit to be obtained by a catalyst composition of the present invention when used for removing contaminants in a gas stream. Accordingly, it is submitted that the examiner's *prima facie* case of obviousness as set forth in the rejection of November 9, 2005 is overcome by the enclosed declaration and comparative test data. In light of the foregoing, it is submitted that claims 27 and 28 patentably define over the Kramer reference and an early indication of same is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the

Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,  
James R. Kittrell

By 

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I, Rachel Piscitelli, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on March 3, 2006.

